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**UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

ERIC HOLDER,
ATTORNEY GENERAL,
UNITED STATES OF AMERICA,

Plaintiff,

-v.-

DAVID ALLEN BRANCA,

Defendant.

Civil Action No.: 09-cv-3145
(Hon. Paul S. Diamond)

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ANSWER OF DEFENDANT DAVID ALLEN BRANCA

INTRODUCTION

1. The averments of Paragraph 1 of the Complaint are denied.

JURISDICTION, STANDING, AND VENUE

2. Assuming there is a basis for a FACE action (18 U.S.C. Sect. 248(c)(2)) which is denied, the averments of Paragraph 2 of the Complaint are admitted.

3. Assuming there is a basis for a FACE action (18 U.S.C. Sect. 248(c)(2)) which is denied, the averments of Paragraph 3 of the Complaint are admitted.

4. The averments of Paragraph 4 of the Complaint are admitted.

FACTUAL BACKGROUND

5. The averments of Paragraph 5 of the Complaint, insofar as they contend that the defendant David Allen Branca maintained an Internet website, <http://www.catholictruefaith.org/argumentabortion.htm>, are admitted, but the remaining averments are denied.

6. The averments of Paragraph 6 of the Complaint are denied as stated. The defendant, however, admits that he, in accordance with his First Amendment rights, protested at abortion facilities and at the homes of physicians who provide abortions.

7. The averments of Paragraph 7 of the Complaint are admitted.

8. The averments of Paragraph 8 of the Complaint are denied as stated. The defendant, however, admits that he, in accordance with his First Amendment rights, identified, in his anti-abortion publications, physicians who provided abortions.

9. The averments of Paragraph 9 of the Complaint are denied.

10. The averments of Paragraph 10 of the Complaint are denied.

11. The averments of Paragraph 11 of the Complaint are denied.

12. The averments of Paragraph 12 of the Complaint are denied as stated. The defendant admits that he, prior to November, 2007, published on his Internet website, in accordance with his First Amendment rights, the names and addresses of physicians who provided abortions.

13. The averments of Paragraph 13 of the Complaint are denied as stated. The defendant admits that he, prior to November, 2007, in accordance with his First Amendment rights, published the names and addresses of certain physicians who provided abortions.

14. The averments of Paragraph 14 of the Complaint are denied.

15. The averments of Paragraph 15 of the Complaint are denied.

16. The averments of Paragraph 16 of the Complaint are denied.

17. The averments of Paragraph 17 of the Complaint are denied.

CAUSE OF ACTION UNDER FACE

18. The defendant incorporates his answers and responses to paragraph 1 through 17 inclusive as set forth above.

19. The averments of Paragraph 19 of the Complaint are denied.

20. The averments of Paragraph 20 of the Complaint are denied.

21. The averments of Paragraph 21 of the Complaint are admitted.

22. The averments of Paragraph 22 of the Complaint are denied.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a valid claim for either substantive or equitable relief.

2. There are no factual, legal or equitable bases to grant injunctive relief and, therefore, the request for such should be denied.

3. The relief requested would violate defendant's First Amendment rights and therefore cannot legally be granted.

4. The plaintiff failed to join necessary parties.

5. The plaintiffs' claims are barred in whole or in part by the doctrines of laches, estoppel, waiver, and unclean hands.

CONCLUSION

WHEREFORE, although the defendant did not use force or the threat of force, or violate any law, the defendant, in November 2007, based upon demands, and promises and representations of the FBI and other representatives of the United States Government that the

United States would not take any legal action against defendant if defendant ceased publishing the language set forth in Paragraph 13 of the Complaint or make other statements which the Government objected to, the defendant ceased publishing those statements. In addition, defendant will now agree, pursuant to a consent judgment, to comply with the Government's requests in the Complaint. The defendant, however, maintains that he has First Amendment rights to identify doctors who perform abortions by their names and addresses and other identifying facts, but he has not and will not threaten those doctors or use force against them or physically obstruct those doctors.

The defendant respectfully requests judgment in his favor, dismissing the Complaint in its entirety.

Dated: July 17, 2009

Respectfully submitted,

/s/ Denis V. Brennan (DVB4549)
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